

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 174 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX

Versus

BHARTIDEVI SARABHAI TRUST NO 22 & 32

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Appearance:

MR MANISH R BHATT for Petitioner  
MR RK PATEL for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

At the instance of the Assessee, the following question is referred to this Court under Sec. 256(1) of the Income Tax Act, 1961.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in

holding that the assessee was not entitled to exemption u/s. 47(vii) of the Income Tax Act, 1961 ?"

2. At the instance of the Revenue, the following question is referred to this Court under Sec. 256(1) of the Income Tax Act, 1961.

"Whether, the Appellate Tribunal is right in law and on facts in holding that when the assessee received shares, debentures and bonds of amalgamated companies, there was no transfer under Section 2(47) of the I.T.Act, 1961 and consequently no capital gains tax could be charged ?"

3. So far as the question referred to at the instance of the Assessee is concerned, it is required to be answered against the Assessee and in favour of the Revenue in view of the decision of this Court in the case of CIT Vs. Gautam Sarabhai Trust No.31 (173 ITR 216).

4. So far as the question referred to at the instance of the Revenue is concerned, it is not required to be answered in view of the decision of this Court in the case of CIT Vs. Leela Sarabhai, reported in (1994) 120 CTR (Guj.) 300. Accordingly, the question the Assessee and in favour of the Revenue and the quesstion at the instance of the Revenue is not answered. This reference is disposed of accordingly with no order asto costs.

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